

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT SEATTLE

ENOSA STRICKLAND, SR.; KATHLEEN  
KELIKOA-STRICKLAND, individually and  
as co-Personal Representative of the ESTATE  
OF ENOSA STRICKLAND JR.,

CASE NO. 22-cv-528

## ORDER DENYING PLAINTIFFS' MOTION TO COMPEL

Plaintiffs,

V.

CITY OF AUBURN, a municipality;  
KENNETH LYMAN, individually,

## Defendants.

This matter comes before the Court on Plaintiffs' Motion to Compel Discovery, requesting an order commanding Defendants to locate and produce "all documents responsive to the Plaintiffs' discovery." Dkt. No. 67. But Defendants contend they weren't even "aware that any request was in dispute until the motion was filed," and that Plaintiff failed entirely to meet and confer about the issues raised in the motion. Dkt. No. 69 at 2.

Whether the parties met and conferred is no trivial matter. LCR 37(a)(1) requires the moving party to certify that they have “in good faith conferred or attempted to confer with the person or party failing to make disclosure or discovery in an effort to resolve the dispute without court action.” “A good faith effort to confer with a party or person not making a disclosure or discovery requires a face-to-face meeting or a telephone conference.” *Id.* If a party fails to make

1 this required certification, “the court may deny the motion without addressing the merits of the  
 2 dispute.” *Id.*

3 The requirement to meet and confer in good faith is not simply a “formalistic prerequisite”  
 4 for judicial resolution. *Selim v. Fivos, Inc.*, C22-1227-JCC, 2023 WL 3172467, at \*2 (W.D. Wash.  
 5 May 1, 2023) (citing *Cardoza v. Bloomin’ Brands, Inc.*, 141 F. Supp. 3d 1137, 1145 (D. Nev.  
 6 2015)). “A good faith effort to resolve discovery disputes requires an exchange of information  
 7 until no additional progress is possible.” *Beasley v. State Farm Mut. Auto. Ins. Co.*, C13-1106-  
 8 RSL, 2014 WL 1268709, at \*1 (W.D. Wash. Mar. 25, 2014). Indeed, even when a certification is  
 9 included, “[c]ourts may look beyond the certification to determine whether a sufficient meet-and-  
 10 confer took place.” *Selim*, 2023 WL 3172467, at \*2 (citing *Cardoza*, 141 F. Supp. 3d 1145)).

11 Here, Plaintiffs failed to certify in their motion to compel or declaration that they met and  
 12 conferred with Defendants before filing their motion. *See* Dkt. Nos. 67, 68. Plaintiffs refer to a  
 13 December 30, 2022, discovery letter; a “January 20” discovery conference; and state that  
 14 “[m]ultiple discovery conferences and correspondence have occurred since.” Dkt. No. 71 at 1. But  
 15 this does not satisfy LCR 37(a)(1), as the rule requires the movant to provide a certification to  
 16 include the “the date, manner, and participants to the conference.” LCR 37(a)(1). Thus, the Court  
 17 finds that Plaintiffs’ reference to former conferral attempts with Defendants does not satisfy the  
 18 good-faith-conferral requirement for the present motion.

19 This motion marks the seventh discovery-related motion filed by the parties, and it was  
 20 clear on the face of each prior motion the parties met and conferred before seeking relief from the  
 21 Court. *See* Dkt. Nos. 15, 19, 25, 31, 37, 67. The Court trusts the parties to meet and confer in good  
 22 faith, as they’ve done in the past, and credits Defendant’s assurance that a phone call will resolve  
 23 the latest discovery dispute. *See* Dkt. No. 69 at 2, 14.

24 For the reasons stated above, Plaintiffs’ motion to compel is DENIED without prejudice.

1 It is so ordered.

2 Dated this 13th day of June, 2023.

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5 Jamal N. Whitehead  
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7 United States District Judge  
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